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EXAMINER

KLIMOWICZ, WILLIAM JOSEPH

ART UNIT PAPER NUMBER

2652

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/029,910

**Applicant(s)**

JUN ET AL.

**Examiner**

William J. Klimowicz

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,8-10,13,14,16-22 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 8-10, 13, 14, 16-22 and 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Status***

Claims 1, 2, 4, 5, 8-10, 13, 14, 16-22 and 25-27 are currently pending.

Claims 3, 6, 7, 11, 12, 15, 23 and 24 have been voluntarily cancelled by the Applicants.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 8-10, 13, 14, 16-22 and 25-27 are rejected under 35 U.S.C. 103(a) as being obvious over Goto et al. (JP 62-267985) in view of Mima et al. (JP 7-176162 A).

As per claim 1, 13, 19 and 25, Goto et al. (JP 62-267985) discloses a disk cartridge (12) comprising: a case (12) to contain a disk (11); a member (15, 16) having a pair of transparent windows (13, 14), and attachable to and detachable from the case (12) (e.g., see, *inter alia*, page 6 - last paragraph of English translation of Goto et al. (JP 62-267985)) to allow an external light (from objective lens (4)) to access opposing surfaces of the disk (11) in the case (12) through the single window member.

As per claim 2, wherein the single member (15, 16) is installed so that an outer surface of the single member (15, 16) is inwardly depressed relative to a surface of the case (12) (e.g., see

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FIG 4, wherein member (14) is slightly inwardly depressed).

As per claim 4 and also claims 10, 14 and 21, wherein the single member (15, 16) is formed of at least one of a glass and acryl (e.g., glass - see page 7, first full paragraph of the English translation of Goto et al. (JP 62-267985)).

As per claims 5 and 27, wherein the single member (15, 16) is installed such that an outer surface of the single member (15, 16) is level with a surface of the case (12). For example, see FIG. 4, wherein the window (17) is level with case surface (12).

As per claim 18 and also claim 22, wherein the single member (15, 16) is expressly installed to the case so as to prevent an inflow of a foreign matter into the case (12) - see English translation of Goto et al. (JP 62-267985).

As per claim 20 and also claim 16, wherein the single (15, 16) has a height such that the outer surface of the single is one of inwardly depressed relative to and at level with a surface of the case (see FIG. 4, as discussed with regard to claims 2 and 5).

With regard to claim 25, a pickup assembly (e.g., including lens (4)) is provided, to emit light onto the disk (11).

As per claims 1, 19 and 25, however, Goto et al. (JP 62-267985) does not explicitly disclose wherein there exists an aperture in the case containing the disk, wherein the dust prevention window members include an end to form either a bridge from one dust prevention window to the other and/or to fill the portion of the aperture located around the case, wherein when the removable/detachable window dust prevention member is attached to the case, the member fits substantially entirely within the aperture.

Alternatively, as per claim 13, Goto et al. (JP 62-267985) does not explicitly disclose an

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end that connects the dust prevention window members in substantially parallel arrangement.

Mima et al. (JP 7-176162 A), however, discloses an analogous attachable/detachable dust prevention member (5) for covering the optical aperture of a disk cartridge including an aperture which is provided in an end of the case and extends therearound - see FIG. 9- wherein the dust prevention member includes two parallelly disposed dust prevention cover members (5) and is further formed into a single piece by an end to form either a bridge from one dust prevention member to the other and/or to fill the portion of the aperture located around the case (2), wherein when the removable/detachable dust prevention member (5) is attached to the case (2), the member (5) fits substantially entirely within the aperture - see FIG. 9 of Mima et al. (JP 7-176162 A). More concretely, as per claim 13, Mima et al. (JP 7-176162 A) discloses wherein the attachable/detachable dust prevention member which covers the optical apertures of a disk cartridge includes an end that connects the dust prevention members (5) in substantially parallel arrangement - see FIG. 9 of Mima et al. (JP 7-176162 A).

Given the conceptual teachings of Mima et al. (JP 7-176162 A) to provide an analogous attachable/detachable dust prevention sealing member structured as a single member with an end bridge joining the two parallelly disposed optical access covering members (5) for covering the optical aperture of an optical disk cartridge, including an aperture that is formed in an end of the cartridge case, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide such a conceptual teaching to the windowed dust prevention sealing member of Goto et al. (JP 62-267985).

The rationale is as follows: Given the conceptual teachings of Mima et al. (JP 7-176162 A) to provide an analogous attachable/detachable dust prevention sealing member structured as a

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single member with an end bridge joining the two parallelly disposed optical access covering members (5) for covering the optical aperture of an optical disk cartridge, including an aperture that is formed in an end of the cartridge case, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide such a conceptual teaching to the windowed dust prevention sealing member of Goto et al. (JP 62-267985) in order to expressly attach a single piece member (in lieu of two separate clawed members), to obtain a cover "where the cover is attached is hermetically sealed, dust or a foreign matter does not enter from the outside and the cartridge becomes inexpensive and high reliable" as expressly suggested and taught by Mima et al. (JP 7-176162 A). See abstract of Mima et al. (JP 7-176162 A).

With regard to claims 26 (and as well as claims 8, 9 and 17), moreover, given the teachings of Goto et al. (JP 62-267985) in combination with Mima et al. (JP 7-176162 A) as a whole, it would have been obvious to use the cartridge of Goto et al. (JP 62-267985) within an objective lens system such that it meets the open-ended range of values set forth by the variables, including those positively associated with structure.

That is, although Goto et al. (JP 62-267985) in combination with Mima et al. (JP 7-176162 A) remains silent as to the specific relationships set forth in claim 26 or a prescribed dimension as set forth in claims 8, 9 and 17, it is noted that, given the teachings of providing a transparent window within an access window of a disk cartridge such that light for recording/reproducing by an optical pickup lens having a predetermined numerical aperture, is transmissive thereto, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have had the transparent window of Goto et al. (JP 62-267985) in

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combination with Mima et al. (JP 7-176162 A) so as to interact with recording lens of an optical pickup, to arrive at a width of window within the range set by the formulaic relationship prescribed in the claims.

The rationale is as follows: one of ordinary skill in the art would have been motivated to have had the transparent window of Goto et al. (JP 62-267985) in combination with Mima et al. (JP 7-176162 A) provided so as to interact with recording lens of an optical pickup, to arrive at a width of window within the range set by the formulaic relationship prescribed in the claims in order to include a window which allows sufficient light to interact with the disk within the cartridge, while minimizing its size such that potential damage or unnecessary window material is thus reduced. No new or unobvious result is seen to be obtained by providing a range or size of window width for the disk cartridge of Goto et al. (JP 62-267985) in combination with Mima et al. (JP 7-176162 A), given the teachings of Goto et al. (JP 62-267985) in combination with Mima et al. (JP 7-176162 A) taken as a whole and the general knowledge available to one having ordinary skill in the art. To arrive at a particular sized window width would have been within the realm of routine optimization/experimentation to thus establish a window width size which performs with a prescribed optical lens,

Moreover, absent a showing of criticality (i.e., unobvious or unexpected results), the relationships set forth in claims 8, 9, 17 and 26, given the disclosure of Goto et al. (JP 62-267985) in combination with Mima et al. (JP 7-176162 A), are considered to be within the level of ordinary skill in the art.

Additionally, the law is replete with cases in which when the mere difference between the claimed invention and the prior art is some range, variable or other dimensional limitation within

the claims, patentability cannot be found.

It furthermore has been held in such a situation, the Applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range. *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

Moreover, the instant disclosure does not set forth evidence ascribing unexpected results due to the claimed dimensions. See *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338 (Fed. Cir. 1984), which held that the dimensional limitations failed to point out a feature which performed and operated any differently from the prior art.

### ***Response to Arguments***

Applicants' arguments with respect to claims 1, 2, 4, 5, 8-10, 13, 14, 16-22 and 25-27 have been considered but are moot in view of the new ground(s) of rejection.

Moreover, Applicants' arguments as it pertains to the Response filed May 2, 2005 have been fully considered but are deemed nonpersuasive based on the facts and evidence of record, in and/or conjunction with, the level of skill in the art, in view of the teachings of Goto et al. (JP 62-267985) and Mima et al. (JP 7-176162 A).

For the foregoing reasons, the Examiner maintains a *prima facie* case of obviousness of claims 1, 2, 4, 5, 8-10, 13, 14, 16-22 and 25-27, in view of the reference evidence. Based on the totality of the record, including due consideration of Applicants' arguments, the Examiner determines that the preponderance of evidence weighs most heavily in favor of obviousness within the meaning of section 103(a).



***Conclusion***

Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

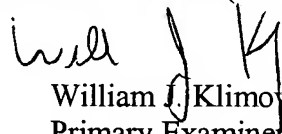
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (571) 272-7577. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William J. Klimowicz  
Primary Examiner  
Art Unit 2652

WJK